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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,241	03/11/2004	Ronald Nordquist	33365/US/5	3556
7590	03/15/2006		EXAMINER BUI, LUAN KIM	
Sean D. Solberg DORSEY & WHITNEY LLP Intellectual Property Department 50 South Sixth Street, Suite 1500 Minneapolis, MN 55402-1498			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/798,241

Applicant(s)

NORDQUIST, RONALD

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.                                                |

***Drawings***

1. The drawings are objected to because Figures 13A, 15A, 15B and 16 are not viewable. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1-4 and 6-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohen et al. (4,750,619; hereinafter Cohen'619). Cohen'619 discloses a tray/container (50) comprising a flexible base (54) defining at least one aperture (59) and at least one flexible wall (60) couple to the base and the at least one wall defining an opening in the container. The tray/container of Cohen'619 is inherently capable for collection of used medical devices and the at least one aperture is capable to allow passage of fluid.

As to claims 3 and 9, the container of Cohen'619 is foldable.

As to claims 4 and 11, Cohen'619 discloses at least one finger lift/handle (80) coupled to the container.

As to claims 6 and 7, Cohen'619 further discloses a sterile packaging (12, 14) configured to receive the container and maintain sterility prior removal (column 4, lines 10-11).

As to claim 10, the package is configured to receive the container in a folded configuration (Figure 2).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al. (4,750,619; hereinafter Cohen'619) in view of Walker (5,090,571). Cohen'619

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discloses a tray/container (50) comprising a flexible base (54) defining at least one aperture (59) and at least one flexible wall (60) couple to the base and the at least one wall defining an opening in the container. The tray/container of Cohen'619 is capable for collection of used medical devices and the at least one aperture is capable to allow passage of fluid. To the extent that Cohen'619 fails to show the container being flexible, Walker teaches a container (50) formed from a flexible plastic foam (column 3, lines 1-2). It would have been obvious to one having ordinary skill in the art in view of Walker to modify the container of Cohen'619 so the container is flexible to facilitate folding.

As to claims 3 and 9, the container of Cohen'619 is foldable.

As to claims 4 and 11, Cohen'619 discloses at least one finger lift/handle (80) coupled to the container.

As to claims 6 and 7, Cohen'619 further discloses a sterile packaging (12, 14) configured to receive the container and maintain sterility prior removal (column 4, lines 10-11).

As to claim 10, the package is configured to receive the container in a folded configuration (Figure 2).

6. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference(s) as applied to claims 1 and 7 above, and further in view of Basile et al. (5,628,970; hereinafter Basile'970). Cohen'619 discloses the container as above having all the limitations of the claims except for the container being formed from polyethylene. Basile'970 shows a container (24) comprising a base having a plurality of apertures (80) and the container formed from polypropylene (column 3, lines 60-61). It would have been obvious to one having ordinary

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skill in the art in view of Basile'970 to modify the container of Cohen'619 so the container formed from polyethylene since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

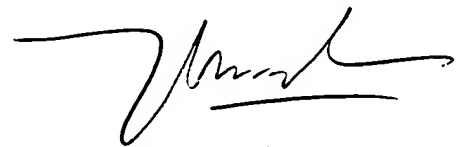
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb  
March 12, 2006



Luan K. Bui  
Primary Examiner  
Art Unit 3728